

Roland Fox

Connecticut v Congo

30th November 2006

1 that CMS would have to pay or is that -- 03:20:44

2 A. Yes, there's a -- under the terms of the -- 03:20:47

3 I think it was 1998 decree, it spelled out how the maritime 03:20:51  
4 tax is calculated; and essentially it's -- it's something 03:20:57  
5 like \$2 a barrel to one Government entity -- \$2, sorry not 03:21:03  
6 per barrel per metric ton, to one Government entity and 03:21:11  
7 60 cents per metric ton to another Government entity. 03:21:16

8 Q. I'm familiar with the 99 decree, I'm just 03:21:23  
9 not -- 03:21:27

10 A. I'm sorry. It may be the 99 decree. 03:21:28

11 Q. Is it the September 1999 decree that you're 03:21:32  
12 referring to? 03:21:35

13 A. It's the one that imposed the maritime tax. 03:21:36

14 MR. LIPE: That's not the September 99 decree. 03:21:39  
15 It's amongst the documents that we sent over to you this 03:21:41  
16 week. 03:21:46

17 Q. We will go back through. Dates are starting 03:21:47  
18 to get confusing. 03:21:50

19 MR. LIPE: I understand. 03:21:52

20 Q. Then the last reference in the activities 03:21:53  
21 column, "2nd qtr 05 royalty". What does that mean? 03:21:57

22 A. The royalty are paid -- sorry, the royalties 03:22:08  
23 are calculated usual initially on a basis of 85% of the 03:22:11  
24 total; and then, on a quarterly basis, it's corrected. 03:22:16

25 Q. Why is that? 03:22:20

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1	<b>A. It's what the Convention provides for.</b>	03:22:20
2	Q. Then it's tried up each quarter under the	03:22:24
3	Convention?	03:22:27
4	<b>A. Exactly, yes.</b>	03:22:28
5	Q. Under section 7 of the Convention; correct?	03:22:29
6	<b>A. I think it's in the appendix to the</b>	03:22:32
7	<b>Convention. I think that's where it's dealt with.</b>	03:22:34
8	Q. Then, if we -- we can come back to that?	03:23:06
9	<b>A. Yeah.</b>	03:23:09
10	Q. I'm not concerned exactly where it is in the	03:23:09
11	Convention, but it derived from the Convention?	03:23:11
12	<b>A. Exactly, yes.</b>	03:23:15
13	Q. Then lifting 131?	03:23:17
14	<b>A. Yeah.</b>	03:23:19
15	Q. That would be an SNPC lifting; correct?	03:23:19
16	<b>A. Correct, yes.</b>	03:23:22
17	Q. And the barrels category, can you read that?	03:23:25
18	<b>A. Yes, it's 605,004.</b>	03:23:34
19	Q. And then there's a deduction in the next	03:23:38
20	paragraph over/under SNPC?	03:23:41
21	<b>A. Yeah, that's 373,420, I think.</b>	03:23:43
22	Q. And it's a negative number; so can you explain	03:23:51
23	that number?	03:23:56
24	<b>A. It's the amount of the -- it's the amount of</b>	03:23:56
25	<b>the over lift by SNPC on that lifting.</b>	03:23:58

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1	Q. So they over lifted by 373,420?	03:24:01
2	A. On that lifting, yes.	03:24:07
3	Q. On that lifting. And by over lift -- what	03:24:08
4	would they have been entitled to?	03:24:11
5	A. 12.5% of 605,004.	03:24:14
6	Q. I see. And so the over/under to the	03:24:17
7	Government then is negative 155,960?	03:24:21
8	A. What you have -- you have to think in terms of	03:24:32
9	what SNPC took and what it was entitled to. What it	03:24:34
10	actually took for itself was the 605 less the Government	03:24:38
11	share of 155. So that the balance -- so the Government took	03:24:43
12	its own oil -- own royalty oil of 155. So the difference	03:24:48
13	between the 605 and 155 is what SNPC actually took.	03:24:54
14	However, they're only entitled to 12.5% of that 605 due to	03:24:58
15	the provisions of the JOA. The difference between what they	03:25:03
16	actually took and what they were entitled to is that number,	03:25:06
17	373.	03:25:10
18	Q. And you said the difference between what they	03:25:27
19	actually took and what they were entitled to is the 373	03:25:32
20	number, that's the negative number?	03:25:37
21	A. That is correct, yes. So that shows they had	03:25:39
22	over lifted on that lifting by that quantity.	03:25:41
23	Q. Okay. In the last column the 155,360; is that	03:25:43
24	correct?	03:25:51
25	A. Yes.	03:25:52



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1	Q. What does that number represent?	03:25:53
2	A. That represents the amount of -- the number of	03:25:55
3	barrels of oil taken by the Government by way of royalty	03:26:00
4	oil.	03:26:03
5	Q. Okay. So that's the same as the number, the	03:26:04
6	negative number prior to it?	03:26:07
7	A. Yes. It off-sets one another effectively.	03:26:09
8	Q. The overall effect of this lifting is that	03:26:13
9	CMS -- is that SNPC is in a negative over/under position	03:26:16
10	and --	03:26:20
11	A. Had -- I'm sorry.	03:26:21
12	Q. -- correct?	03:26:24
13	A. Had over lifted by 375,000 barrels on that	03:26:25
14	lifting.	03:26:28
15	Q. Okay. And what effect does that have in	03:26:28
16	calculating -- in the next -- when the next lifting is	03:26:31
17	taken?	03:26:34
18	A. What you have to do is to add up all of the	03:26:35
19	under/over lifts for SNPC and by doing so, which is	03:26:37
20	basically all the ones in that column we've just been	03:26:43
21	looking at, and then you will be able to tell the cumulative	03:26:47
22	over/under lifting position of SNPC; and that, together with	03:26:52
23	any royalty oil to be taken by the Government, would	03:26:58
24	determine when SNPC was entitled to take the next lifting.	03:27:01
25	It's that number you take into account in determining when	03:27:06

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1	<b>you hit the 275.</b>	03:27:10
2	Q. So to get to the 275 you subtract the	03:27:15
3	over/unders, the SNPC's over/under positions?	03:27:18
4	A. From day one.	03:27:23
5	Q. From day one?	03:27:24
6	A. Yeah.	03:27:25
7	Q. And then you have to add in the amount of oil	03:27:25
8	that CMS is accumulating?	03:27:29
9	A. No.	03:27:33
10	Q. No?	03:27:33
11	A. No. You'd then add in the computations -- the	03:27:34
12	relevant computations for the Government royalty oil; and	03:27:37
13	when you add the two together and that becomes more than 275	03:27:40
14	SNPC is entitled to take the next lifting.	03:27:46
15	Q. And that returns us, then, to paragraph 3	03:27:50
16	of -- to item 3 of the first page, which is that 70 barrels	03:27:52
17	this month are factored in to the over/under position?	03:28:00
18	A. Yes. What you'll see there, you see, in that	03:28:13
19	last section at the bottom of the page for the lifting 131,	03:28:16
20	the royalty oil computation for that lifting is 70.388,	03:28:19
21	which then is then -- it is actually 386 sorry, which is	03:28:26
22	then the number that appears on the first page of this	03:28:33
23	document.	03:28:36
24	Q. I see. The calculation is beginning again for	03:28:51
25	when they get to the 275?	03:28:55

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1           **A. Yes, it's -- from that point you then try --** 03:28:57  
2           **add the two elements together; and eventually you come to** 03:29:00  
3           **a stage when the 275 is hit, at which point SNPC is entitled** 03:29:03  
4           **to make a nomination for the next lifting.** 03:29:07  
5           Q. And then there's two numbers under the barrel 03:29:10  
6           in the "O/U SNPC" column. Is that 2.953 down there at the 03:29:13  
7           bottom? 03:29:21  
8           A. 2953, yes. 03:29:22  
9           Q. Then negative 2953? 03:29:23  
10          A. Yes. 03:29:25  
11          Q. What is -- what are those numbers? 03:29:26  
12          A. Those are the lifting costs associated with 03:29:28  
13          that which, as you can see, is around \$150,000, which is the 03:29:30  
14          number we come back to that we discussed earlier this 03:29:35  
15          morning. 03:29:39  
16          Q. Oh, so part of their -- part of CMS's -- 03:29:41  
17          I'm sorry -- 03:29:44  
18          A. No, this is SNPC. 03:29:45  
19          Q. Sorry. Part of SNPC's negative -- the 03:29:47  
20          calculation of SNPC's negative position includes the 03:29:51  
21          operating costs which CMS is entitled to subtract? 03:29:56  
22          A. The \$150,000 worth of lifting costs. 03:30:02  
23          Q. Right. 03:30:06  
24          A. As you can see, each barrel on this particular 03:30:06  
25          lifting is worth around \$50. It's around 3,000 barrels, so 03:30:09



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1 it's -- that's where the number comes from.

03:30:16

2 Q. And the NS Concept was the vessel that picked  
3 up this lifting?

03:30:20

03:30:27

4 A. That would appear to be the case, yes.

03:30:30

5 Q. How soon before a vessel docks does CMS have  
6 notice that a vessel is coming?

03:30:32

03:30:39

7 A. SNPC is, under the terms of the amendment to  
8 the lifting agreement, obliged to give 25 days' notice to  
9 say that a -- that it wishes to take a lifting. It  
10 nominates the vessel; and then, I believe, there's  
11 a notification shortly beforehand to say when the vessel  
12 will arrive.

03:30:41

03:30:44

03:30:48

03:30:53

03:30:59

03:31:04

13 Q. And I'm just going to mark this as Exhibit 14.

03:31:32

14 (Exhibit 14 marked for identification)

03:31:36

15 A. Thank you.

03:31:51

16 Q. Mr. Fox, this is the statistics  
17 for October 2006. It's the same --

03:31:55

03:31:59

18 A. Yes.

03:32:03

19 Q. -- type of document that we just walked  
20 through; correct?

03:32:03

03:32:06

21 A. Hmm, hmm.

03:32:07

22 Q. And this reflects that just last month's  
23 production, October 2006; correct?

03:32:08

03:32:10

24 A. Yes.

03:32:13

25 Q. Now, who -- who receives -- who receives these

03:32:14

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1	documents?	03:32:17
2	A. It's sent to the Government. I -- actually,	03:32:18
3	when I say it's sent to the Government I suspect --	03:32:22
4	I believe it's sent to SNPC, not to the Government at all,	03:32:26
5	or maybe it is sent to both.	03:32:29
6	Q. On the 05 one it is sent to the Government?	03:32:37
7	A. I mean, it could be it's sent to both.	03:32:41
8	Q. Let's just finish off going through 05, the 05	03:32:50
9	one --	03:32:56
10	A. Actually, I think it's clear because it is	03:32:56
11	copied to the SNPC at the bottom. So this must be sent to	03:32:59
12	the Government.	03:33:02
13	Q. Okay. Okay. After the over/under page, which	03:33:03
14	is 1579, then we get to 1580?	03:33:09
15	A. Sorry, where?	03:33:13
16	Q. On document 13 --	03:33:15
17	MR. LIPE: He's gone back to 13.	03:33:18
18	Q. I just want to follow up on 13 and finish it	03:33:20
19	off for us.	03:33:23
20	A. Okay.	03:33:24
21	Q. The -- 1580. What is the production? The	03:33:36
22	production reference of September 2005, that's the metric	03:33:40
23	tons that --	03:33:45
24	A. Yes, yeah.	03:33:46
25	Q. That were produced that month?	03:33:47



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1	A. Correct.	03:33:49
2	Q. And then the next column; what is that	03:33:50
3	representing?	03:33:58
4	A. That's sales during the month.	03:33:59
5	Q. Okay. And then the "Redevance"?	03:34:01
6	A. Royalty .	03:34:09
7	Q. And that's calculated in dollars per each	03:34:11
8	working interest owner; correct?	03:34:15
9	A. Correct.	03:34:18
10	Q. So this is the breakout that we were	03:34:24
11	struggling with earlier that leads to the 3.575 million and	03:34:26
12	change calculation --	03:34:32
13	A. Yes.	03:34:33
14	Q. -- which is then translated into barrels of	03:34:33
15	oil based upon the market price; correct?	03:34:36
16	A. Correct.	03:34:38
17	Q. And then the next page, which is 1581, is	03:35:01
18	this -- what is this reporting?	03:35:14
19	A. There are certain costs that are allowed to be	03:35:19
20	deducted before you make the calculation of the royalty,	03:35:23
21	again governed by Article 7 of the Convention. Internal	03:35:26
22	transport, as you can see, has got a zero figure. There are	03:35:33
23	other costs related there that you are entitled to take into	03:35:37
24	account before you start making your calculation; and those	03:35:40
25	are -- those are the costs that are associated.	03:35:44

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1	Q. Costs associated with deductions prior to	03:35:50
2	calculating the royalty?	03:35:53
3	A. Yes. These are costs which the Convention	03:35:55
4	allows you to deduct before you make your royalty	03:35:56
5	calculation.	03:36:00
6	Q. But that doesn't include the maritime tax	03:36:01
7	off-set or the off-set for the production costs?	03:36:03
8	A. The lifting costs.	03:36:07
9	Q. The operating costs?	03:36:08
10	A. The lifting costs.	03:36:09
11	Q. The lifting costs?	03:36:10
12	A. Yes.	03:36:12
13	Q. Okay. Those are represented elsewhere or	03:36:12
14	they're --	03:36:15
15	A. They're, as we've seen already, in that	03:36:16
16	document, in that statement.	03:36:18
17	Q. In the over/under lift?	03:36:21
18	A. Yes.	03:36:23
19	Q. And then 1582. Tell me what this is	03:36:23
20	reporting.	03:36:30
21	A. This is talking about the -- it's -- the total	03:36:31
22	volume of oil exported is the 91 million -- 91,000 tons with	03:36:37
23	a value of \$30 million. The share -- the work --	03:36:44
24	entitlement share of CMS being 25% is the \$7 million, which	03:36:55
25	would be a quarter of the 30.	03:37:03

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1	Q. Hmm, hmm.	03:37:10
2	A. The 654 is the cost, which we've already	03:37:10
3	discussed on the previous page, which are deductible before	03:37:15
4	you calculate the royalty. So that's its share of that	03:37:21
5	number. So, basically, 654 is 25% of the number calculated	03:37:26
6	on the previous page, the 1,668.	03:37:32
7	Q. And then?	03:37:35
8	A. And that gives you the basis on which you	03:37:36
9	calculate the royalty delivery for the Government. And it	03:37:38
10	goes on then to talk about the fact that CMS has to pay to	03:37:43
11	a royalty of 14.5%; and also refers to the fact that the	03:37:49
12	SNPC royalty is also a responsibility of the other working	03:37:55
13	interest owners, as provided for in the JOA.	03:37:59
14	Now, as SNPC has a 14.5% royalty the two numbers	03:38:04
15	work out the same.	03:38:11
16	Q. Under the JOA the other working interest	03:38:12
17	owners are responsible for SNPC's portion of the royalty?	03:38:14
18	A. Correct.	03:38:18
19	Q. Okay. And then --	03:38:19
20	A. And so the second -- the second number is 50%	03:38:23
21	of the share of SNPC.	03:38:28
22	Q. You say the second number, what are you	03:38:34
23	referring to?	03:38:37
24	A. Where it talks about -- where there are two	03:38:37
25	numbers which are the same, 1,013,000.	03:38:43



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1 Q. Hmm, hmm. 03:38:47

2 A. Now, the first one relates to CMS land the 03:38:48

3 second one relates to the CMS's responsibility in respect of 03:38:50

4 SNPC. The reason that those two numbers are the same is 03:38:54

5 that CMS and SNPC both pay 14.5%. CMS is obliged to pay 50% 03:38:58

6 proportionately, obviously; and the other parties are 03:39:04

7 obliged -- the Nuevo parties pay 50% of the SNPC share. 03:39:04

8 Q. That's how we get the same number? 03:39:09

9 A. The same number, yeah. 03:39:11

10 Q. And, then, the total to the -- is that? 03:39:13

11 A. That's the total royalty that -- the total 03:39:15

12 computation of the royalty is the 1.7 million. 85% of that 03:39:17

13 is the initial figure that appears in the documentation; and 03:39:22

14 then the final 15% gets sorted out -- again, as we've 03:39:26

15 discussed, earlier in that quarterly adjustment. 03:39:31

16 Q. On the true up each quarter? 03:39:35

17 A. Yeah. And then the numbers at the bottom are 03:39:37

18 basically the 1.7 each -- CMS's share and the SNPC share of 03:39:40

19 the royalty. 03:39:45

20 Q. And the reason why it's not the 3 million 03:39:50

21 number is because it doesn't take into account -- 03:39:52

22 A. The Nuevo. 03:39:56

23 Q. The Nuevo and the Nomeco. 03:39:58

24 A. Exactly -- no, the two Nuevo companies. 03:39:59

25 Q. I'm sorry. That's right. Thank you. And all 03:40:06

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1	of these calculations are done in dollars?	03:40:13
2	A. Yes.	03:40:17
3	Q. And the detail -- then there's a line and the	03:40:22
4	detail of the royalty to the payer on the same page 1582?	03:40:30
5	A. Sorry, where are you looking at?	03:40:36
6	Q. The detail.	03:40:38
7	A. Yes. So what that's saying is you go back-up	03:40:39
8	to the number above which is the total royalty, which is the	03:40:41
9	1.7. The CMS responsibility or the CMS -- the royalty that	03:40:44
10	applies in respect of the CMS entitlement interest is the	03:40:50
11	first figure; and the amount that CMS is responsible for	03:40:56
12	under the terms of the JOA regarding the SNPC royalty	03:41:00
13	obligation is the second element.	03:41:05
14	Q. Okay. What is page 1583, detail?	03:41:08
15	A. It's exactly the same for Nuevo Congo.	03:41:20
16	Q. It is just the Nuevo Congo calculation?	03:41:24
17	A. Yes.	03:41:27
18	Q. And then the next page is --	03:41:28
19	A. The other Nuevo company.	03:41:32
20	Q. The Nuevo Congo Limited calculation?	03:41:36
21	A. Yes.	03:41:39
22	Q. Both of these pages are just reflecting their	03:41:40
23	share of the royalty due to the Congo?	03:41:44
24	A. It's reflecting -- it's their share of the	03:41:46
25	computation of the royalty that ultimately is taken by the	03:41:48

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1	<b>Congo at the time of the next SNPC lifting.</b>	03:41:51
2	Q. And the very last page of this is the	03:41:59
3	calculation for SNPC?	03:42:00
4	<b>A. Exactly the same process for SNPC.</b>	03:42:02
5	Q. Thank you for that. How you doing? Do you	03:42:16
6	want to keep marching on or you want to take a break?	03:42:19
7	<b>A. I'm okay for the time being. At some stage</b>	03:42:23
8	<b>I will want to go to the loo, but I'll wait for a bit</b>	03:42:26
9	<b>longer.</b>	03:42:29
10	MR. LIPE: If you want to finish. Maybe we can	03:42:30
11	finish 14. Or you think you don't need to go through 14?	03:42:32
12	MR. KAPLAN: I think that after his explanation on	03:42:38
13	how the -- the calculation on 14 is the same calculation	03:42:40
14	it's just for a different -- it's just for last month's	03:42:42
15	production.	03:42:46
16	<b>A. Exactly, yes.</b>	03:42:48
17	Q. Have there been any changes in the way CMS	03:42:48
18	does its calculations from October 2005 to 2006?	03:42:52
19	<b>A. No. If you follow the same process for this</b>	03:42:56
20	<b>other document you will reach the same conclusions.</b>	03:43:02
21	Q. The over/under sheet looks -- I just want to	03:43:07
22	go to the over/under check which is at 17 --	03:43:10
23	<b>A. Are we on Exhibit 13?</b>	03:43:17
24	Q. 14 now.	03:43:21
25	<b>A. 13 or 14?</b>	03:43:22



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1	Q. 14.	03:43:24
2	A. Right.	03:43:24
3	Q. So this does not have an estimate for when the	03:43:25
4	next SNPC lifting -- 137 is the last lifting referenced	03:43:28
5	here.	03:43:35
6	A. I -- I think -- let's have a look. No, it	03:43:36
7	does. You'll see that on the right-hand side if you look at	03:43:42
8	the 174,995.	03:43:49
9	Q. Aha.	03:43:51
10	A. That is the Government -- you see 206,411 at	03:43:52
11	the bottom?	03:43:56
12	Q. Yes.	03:43:58
13	A. That is the amount that ultimately will be	03:43:58
14	taken by the Government by way of royalty. You deduct from	03:44:04
15	that the SNPC over lift, which is the 31,000. And so the	03:44:09
16	number on the right-hand side, the 174, shows that the date	03:44:18
17	this document was produced, which is the 13th -- 13th	03:44:21
18	of November, the Government and SNPC together had not yet	03:44:25
19	reached the 275 figure; but as of now, as I'm told by	03:44:31
20	Mr. Faillenet they have, so -- which is why they will take	03:44:45
21	the next lifting.	03:44:49
22	Q. If you look at 1726 of Exhibit 14 and	03:45:40
23	page 1582 of Exhibit 13. I'm sorry, I was -- I'm sorry,	03:45:46
24	apples with oranges?	03:45:56
25	A. Yeah.	03:46:00

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1	MR. KAPLAN: Okay. I'm done with those two	03:46:30
2	documents, so if you want to take the break now.	03:46:32
3	MR. LIPE: Sure, that's fine.	03:46:39
4	A. Okay.	03:46:41
5	(3:46 p.m.)	03:46:42
6	(Short Break)	03:46:47
7	(3:53 p.m.)	03:53:04
8	Q. I have a series of the documents that we've	03:53:06
9	just been looking at that I'm just going to look with you	03:53:09
10	briefly. You don't need to go through all the calculations	03:53:14
11	again.	03:53:16
12	A. Right.	03:53:17
13	Q. The first one I'm handing you is what's	03:53:18
14	Exhibit 15.	03:53:21
15	(Exhibit 15 marked for identification)	03:53:30
16	Q. This is the statistics for September 2005;	03:53:30
17	correct?	03:53:33
18	A. Yes.	03:53:34
19	Q. And this shows that there was, in that month,	03:53:34
20	49.960 barrels of royalty oil accumulated?	03:53:41
21	A. Computed, yes. It's -- this was the royalty	03:53:47
22	oil computed on the lifting that took place on the --	03:53:52
23	in August, I think.	03:54:02
24	Q. On the lifting that took place in when,	03:54:05
25	I'm sorry?	03:54:07

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1	A. It looks like it's the -- in August -- have	03:54:08
2	you -- have you got the previous statement --	03:54:11
3	Q. I don't.	03:54:17
4	A. -- for the month of August 2005 --	03:54:19
5	Q. But if we go to the over/under sheet --	03:54:22
6	A. Yes, this -- what it says there is	03:54:25
7	2 million barrels -- actually, yes if you've got the	03:54:27
8	over/under sheet that would be easier. There was an --	03:54:31
9	Q. Well, it's -- you were saying what is -- it	03:54:37
10	says after "Messieurs" we have -- what do we have?	03:54:41
11	A. "We have the pleasure to transmit to you the	03:54:44
12	following statistics: commercialised production", as we've	03:54:47
13	explained 258,000 barrels; volume lifted	03:54:52
14	in September 605,000 barrels, royalty \$2 million being X	03:54:56
15	number of barrels royalty relating to the month	03:55:15
16	of August 2005.	03:55:19
17	Q. And you say that that represents the	03:55:26
18	computation of the royalty?	03:55:28
19	A. Yes. Yeah. Yes.	03:55:30
20	Q. Does Congo -- does Congo -- have you talked to	03:55:32
21	Congo about providing these statistics to them? Has CMS	03:55:40
22	talked to Congo about providing these statistics to them?	03:55:43
23	A. I have no idea whether there have been any	03:55:46
24	discussions on it, but it is the form that has been used for	03:55:50
25	many years and is obviously acceptable to both CMS and the	03:55:55



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1	<b>Congo.</b>	03:55:58
2	Q. Do you know why CMS represents the royalty to	03:55:59
3	them on a monthly basis?	03:56:02
4	A. So that they have an idea as to how much	03:56:04
5	ultimately they will be entitled to receive on the next SNPC	03:56:06
6	lifting.	03:56:14
7	Q. Now, this -- this document shows that Congo	03:56:23
8	took or SNPC, on Congo's behalf, took a royalty lifting	03:56:25
9	of --	03:56:31
10	A. Sorry.	03:56:32
11	Q. Took a royalty lifting in August?	03:56:33
12	A. No. I'm not sure that's correct, actually.	03:56:35
13	Q. I think if you look on page 1564?	03:56:46
14	A. Yes, the 20th -- the 20th of September.	03:56:53
15	Q. Is that not --	03:57:01
16	A. The royalty there in paragraph 3 relates to	03:57:02
17	the September lifting.	03:57:04
18	Q. Relates to the September royalty lifting?	03:57:07
19	A. The September lifting which was partly royalty	03:57:09
20	oil and partly of SNPC working interest oil or ...	03:57:11
21	Q. Okay.	03:57:17
22	MR. LIPE: I don't want there to be any confusion.	03:57:25
23	I'm not sure that's right, Roland.	03:57:28
24	A. Am I looking? Am I looking at --	03:57:32
25	MR. LIPE: This is lifting 130.	03:57:36

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1	A. Yes, which is the -- I'm sorry, yes.	03:57:46
2	Q. 131 is the royalty lifting; correct? This	03:57:49
3	reflects 130, lifting 130; and 131 is the royalty lifting?	03:57:54
4	A. Yes. Do you have the over/under lift	03:58:02
5	statement we were looking at a minute ago?	03:58:07
6	Q. It's attached to the document at page 1571.	03:58:09
7	A. Hmm, hmm. Yeah, 131 was the royalty lifting.	03:58:13
8	Q. That would be the October -- the October	03:58:33
9	statement we looked at earlier reflects that lifting?	03:58:35
10	A. Yes.	03:58:38
11	Q. Then if you go to Exhibit 16, which is	03:59:21
12	document 1637, which I will give to you.	03:59:24
13	(Exhibit 16 marked for identification)	03:59:28
14	A. Right.	03:59:30
15	Q. And this is the statistics for March of 2006?	03:59:54
16	A. Yes. Relating to -- I'm sorry -- yes, they	04:00:05
17	are.	04:00:09
18	Q. And I'm going to give you 17 at the same time.	04:00:10
19	(Exhibit 17 marked for identification)	04:00:14
20	Q. Why don't we start with 17 and work back to	04:00:40
21	16; okay?	04:00:43
22	A. Right. Yes.	04:00:44
23	Q. 17 is the statistics for September of 2006 --	04:00:45
24	A. Hmm, hmm.	04:00:50
25	Q. Okay. And there's some handwriting in the	04:00:52

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1 right-hand side of the page. Do you know whose handwriting 04:00:56  
2 that is? 04:00:59  
3 A. No. 04:01:03  
4 Q. You don't know what that note is referring to? 04:01:08  
5 A. Well, it says the name of someone from SNPC, 04:01:11  
6 we received 13th October. I'm wondering. I think that 04:01:15  
7 might be the signature of Arnaud Le Blanc. I'm not sure 04:01:20  
8 though. 04:01:26  
9 Q. Okay. And then the royalty, paragraph 3 or 04:01:26  
10 item 3, reflects a zero dollar value. Is that because 04:01:32  
11 a royalty lifting was taken in August? 04:01:37  
12 A. No. 04:01:46  
13 Q. Why is there a zero -- 04:01:46  
14 A. Is that because -- was there a lifting at all 04:01:49  
15 in August? I don't think there was. That's why. The 04:01:51  
16 liftings took place in June and September. There was 04:01:59  
17 no August lifting and therefore that's why the zero is 04:02:02  
18 there. 04:02:05  
19 Q. Okay. Why -- why is the zero there? 04:02:06  
20 A. Because there was no lifting. 04:02:08  
21 Q. There was? 04:02:10  
22 A. No lifting and therefore no computation to do 04:02:11  
23 a lifting on. 04:02:14  
24 If you look at the under/over statement you will 04:02:21  
25 see there was a lifting in April 06, a lifting in June 06 04:02:23



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1	A. 100%.	06:07:19
2	Q. Okay. So then at the ultimate -- ultimate --	06:07:20
3	if you could just mark that on there too, please.	06:07:25
4	A. Okay.	06:07:28
5	Q. The ultimate holding of the French oil group	06:07:29
6	emanates from the Perenco structure which is ultimately held	06:07:34
7	by both Perrodos?	06:07:39
8	A. That's correct.	06:07:41
9	Q. Hubert and --	06:07:42
10	A. And Francois.	06:07:43
11	Q. And Francois?	06:07:45
12	A. That's correct.	06:07:47
13	Q. Does Francois have any positions within the	06:07:47
14	Perenco oil group?	06:07:52
15	A. He is an employee of Perenco Holdings.	06:07:53
16	Q. Which is the --	06:07:57
17	A. Company that employs staff in the UK.	06:08:00
18	Q. Okay. And he's resident here in the UK?	06:08:04
19	A. He is.	06:08:08
20	Q. Okay. Do either of the Perrodo brothers have	06:08:08
21	interest in or do they sit on the Board of Congo Rep?	06:08:22
22	A. No.	06:08:26
23	Q. No. Do either of them have any other business	06:08:27
24	interest in Congo that you're aware of?	06:08:33
25	A. No.	06:08:35

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1	Q. No that you're aware of or they --	06:08:37
2	A. They have no other business interest in Congo	06:08:41
3	other than through the oil holdings which we've already	06:08:43
4	dealt with.	06:08:47
5	Q. Okay. Getting back to Lankan, Inc., which was	06:08:49
6	the Delaware Corporation --	06:08:56
7	A. Right.	06:09:00
8	Q. -- what is -- what is their corporate charter,	06:09:07
9	say in Delaware? What is their purpose for --	06:09:10
10	A. I presume it's a standard Delaware charter;	06:09:14
11	I can't imagine it's got anything special attached to it.	06:09:17
12	Q. From a practical standpoint, what is -- what	06:09:21
13	is Lankan -- where does Lankan fit within oil -- the Perenco	06:09:26
14	oil business structure? What is -- what is Lankan's	06:09:32
15	purpose?	06:09:41
16	A. If we're talking about the Delaware company,	06:09:41
17	it was the vehicle that was used to acquire CMS Oil and Gas	06:09:44
18	(International) Company.	06:09:49
19	Q. And it was set up by Perenco prior to --	06:09:50
20	A. For the purposes of the acquisition.	06:09:53
21	Q. Okay. Okay. And then CMS Nomeco Congo, Inc.,	06:09:56
22	that is now the Bahamas corporation which was a Delaware	06:10:12
23	LLC; right?	06:10:15
24	A. That's correct, yes.	06:10:17
25	Q. Why did CMS Inc. move to the Bahamas?	06:10:30

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1           **A. It's a more taxable -- more tax beneficially** 06:10:33  
2           **place to operate out of. All our companies normally are** 06:10:37  
3           **Bahamas based corporations; and it ensures we would not have** 06:10:41  
4           **to spend further money on being subject to new garnishment** 06:10:45  
5           **writs in the US.** 06:10:51  
6           Q. And that was done despite the institution of 06:10:54  
7           two lawsuits -- at least two lawsuits in Delaware of which 06:10:56  
8           I'm aware -- of this lawsuit and a lawsuit that was started 06:11:00  
9           by a company called Walker International? 06:11:06  
10           **A. The conversion and continuance in the Bahamas** 06:11:08  
11           **has no impact on the existing lawsuits in Delaware; that has** 06:11:14  
12           **already been stated to you in this case. I think Mr. Lipe** 06:11:21  
13           **sent you an e-mail saying this was a possibility and** 06:11:24  
14           **confirmed it would have no impact whatsoever on the existing** 06:11:27  
15           **lawsuits.** 06:11:31  
16           Q. So is it CMS's position that for the -- for 06:11:32  
17           this case if judgment is rendered in favor of Af-Cap they 06:11:37  
18           will have no impediment to collecting the judgment from CMS? 06:11:46  
19           **A. The -- I can't think of any that there would** 06:11:53  
20           **be. There's -- this move was intended to have no impact** 06:11:56  
21           **whatsoever on the existing garnishment litigation. It was** 06:12:01  
22           **one of the reasons for the move was to ensure that we** 06:12:06  
23           **didn't -- we weren't subject to new garnishment litigation.** 06:12:09  
24           **Having spent \$3 million in legal fees, there comes a time** 06:12:14  
25           **when you have to say you've had enough.** 06:12:18